

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND EDWARD STEELE,

Petitioner,

vs.

No. CIV S-03-0143 GEB KJM

DEATH PENALTY CASE

JOHN STOKES,  
Acting Warden of California State  
Prison at San Quentin,

Respondent.

ORDER

On October 24, 2007 the undersigned held a status conference.<sup>1</sup> Peter Giannini participated telephonically for petitioner. Eric Christoffersen appeared for respondent. In addition, Joe Schlesinger of the Office of the Federal Defender was present to inform the court of progress on obtaining co-counsel for Mr. Giannini. In the Answer, respondent raises the procedural defenses of exhaustion, procedural default, and non-retroactivity under Teague v. Lane, 489 U.S. 288 (1989). The court has already ruled on the exhaustion issues. Respondent informed the court that he raised them to preserve them for appeal. Before addressing discovery and other evidentiary hearing issues, the court will consider the procedural defenses.

<sup>1</sup> At the conclusion of the status conference, counsel for respondent was excused and the court conducted an ex parte budgeting conference with counsel for petitioner.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED as follows:

1. Within sixty days of the filed date of this order, respondent shall file a memorandum of points and authorities on his assertions that some of petitioner's claims are barred under the procedural default doctrine and under Teague<sup>2</sup>; and
2. Within sixty days of the filing of respondent's brief, petitioner shall file an opposing memorandum.
3. Within thirty days thereafter, respondent may file a reply. Thereafter, the undersigned will set oral argument if necessary.

DATED: October 24, 2007.

  
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U.S. MAGISTRATE JUDGE

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<sup>2</sup> The court recognizes that some Teague issues may be difficult to address until the claims are more fully developed. If respondent finds that is the case, he may preserve the Teague argument with respect to some claims for a later time.